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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,852	11/07/2001	Takashi Enokihara	100809-00085(SCEI 19.066)	7911
26304	7590	06/20/2005	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585			PSITOS, ARISTOTELIS M	
			ART UNIT	PAPER NUMBER
			2653	
DATE MAILED: 06/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/044,852	ENOKIHARA, TAKASHI	
	Examiner	Art Unit	
	Aristotelis M. Psitos	2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 and 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-13 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

Applicant's response of 10/27/04 has been considered with the following results.

Claims 6-9, 14-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/7/04.

### *Information Disclosure Statement*

Applicant's communication of the above date, recites the submission of a copy of the IDS of 4/11/02. A copy of the 4/11/02 IDS was reviewed on 6/28/04 and has been made of record.

### *Specification*

The amendment to the title of the invention is descriptive. Applicant's cooperation in provided such is appreciated.

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1, 10, 5 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2, 11, 3 respectively of U.S. Patent No. 6826134 in view of either JP 63-161538, Hong et al or Fennema et al. The following analysis is made.

Claim 10 :

claim 10 of 6826134

A control method for an optical disk

Lines 1-11 of this claim

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device that writes on and/or reads  
from an optical disk information by  
focusing a light spot from an optical  
pickup onto the optical disk, and  
includes a tracking adjustment system  
that performs tracking adjustment of  
said optical pickup with respect to said  
optical disk, a sled adjustment system  
that adjusts a sled position of said  
optical pickup, and a control means  
that controls said tracking and sled  
adjustment systems, wherein said  
sled adjustment system and said tracking  
adjustment system are controlled independently,  
wherein said control method comprises:

an offset value acquisition step that detects  
a tracking drive signal output from said tracking  
adjustment system and acquires signal values  
of said tracking drive signal as tracking drive offset  
values;

lines 12-15 of claim 10

an offset representative value computation step  
that computes an offset representative value based  
on multiple tracking drive offset values for one lap  
of said optical disk that are acquired by said  
offset value acquisition step;

see either Fennema, wrt  
figure 8, or JP 63-161538  
or Hong et al

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an offset value comparison step that compares an offset center value, which is the tracking drive offset value in the state in which no tracking adjustment control is performed, and the tracking drive offset values computed by said offset value acquisition step;

lines 16-20 of claim 10

and a sled drive decision step that decides, based on a comparison result by said offset value comparison step whether to drive said sled adjustment system.

lines 24-26 of claim 10

& claim 11

As analyzed above, the pending claim differs with respect to the previously patented claim by having the additional representative value capability.

Such a representative value capability is taught in either

- a) the JP reference 63-161538 – see the abstract with respect to “mean” value of the track.
- b) Hong et al – see the discussion starting at col. 1 lines 58-65, which the examiner interprets meets the claimed representative value capability.
- c) Fennema – see col 12 line 50 to col 14 line 45, which the examiner interprets as meeting the above claimed representative value capability.

It would have been obvious to modify the above noted claimed system as presented in claim 11 (method) or claim 2 (apparatus equivalent of pending method claim 10) with the teachings from any of the above secondary references, motivation is to ensure a properly operational tracking system by including an “average” , mean value of the offset signal so as to better refine the system.

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With respect to pending claim 1, such is the analogous apparatus claim, which is presently claimed in claim 2 of the above patent. No further analysis is made therewith.

With respect to claim 5, such is already present in claim 3 of the above noted patent.

2. Claims 2 and <sup>it</sup>12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 and 11 respectively of U.S. Patent No. 6286134 in view of the art as applied above in paragraph 1 and all further considered with Song.

Song discloses in this environment the overall disc drive system as depicted in figure 2, controller, tracking actuator, sled motor and spindle motor. See further discussion with respect to figure 2. There are no particulars of these standard subsystems.

It would have been obvious to modify the base system as analyzed above in paragraph 2 with the additional teaching from Song, motivation is to include a spindle motor capability and hence also include such as part of the feedback & control loop. Inclusion of such subsystems is considered a desired capability since spindle motors also are part of the above overall system subject to error(s) and compensation of such is desirable in order to remove spindle motor vibration(s)/errors.

3. Claims 3 and 12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 and 11 respectively of U.S. Patent No. 6286134 in view of the art as applied above in paragraph 1 and all further considered with Fennema et al.

Fennema et al provides for the "averaging" of his system for ten rotations. The examiner concludes that claims 3 and 12 merely describe the mathematical "averaging" function and hence if not inherently present in the above Fennema et al system (as well as mean value of either JP 63-161538 or Hong et al) certainly obvious to those of ordinary skill in the art to establish an "average" correction capability.

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4. Claim 18 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of U.S. Patent No. 6286134 in view of the art as applied above in paragraph 1 and all further considered with Official notice.

With respect to claim 18, such is drawn to a medium containing the appropriate instructions.

Claim 18 is written as a product, a medium, and upon this medium is a set of instruction to perform the appropriate control of a disc drive/sled. The examiner concludes that a set of instructions are contained in a controller of the either the patent or in any of the secondary references.

The examiner takes official notice of control/set up/boot/recovery discs as being well known in the art. These discs have programs (a set of instructions) written thereon in order to perform a myriad of functions. Hence, the examiner concludes that it would have been obvious to one of ordinary skill in the art to further modify the above previously claimed invention of claim 11 as stated above in paragraph 1, with such a teaching and store the appropriate set of instructions upon a blank disc (such as a back up disc), and hence relieve the waste of memory in the hard drive. This also permits these instructions to be performed on a plurality of disc drives.

5. Claims 4 and 13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 and 11 respectively of U.S. Patent No. 6286134 in view of standard deviation practice, coarse-fine tracking abilities (Official Notice).

As far as the examiner can ascertain from both the disclosure and claimed terminology, the "larger –smaller" relationship is standard criteria for narrowing a decision point, i.e., how much farther (larger), or closer (smaller) a present point is to a desired point.

Hence the examiner concludes that such a procedure (set of instructions) not only is well known (commonly used in coarse and fine tracking situations) but takes Official Notice thereto.

It would have been obvious to modify the base system of the references stated above in paragraph 6 with such standard ability, motivation is to ensure proper centering upon the decision point.

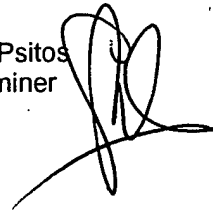
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos  
Primary Examiner  
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A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the bottom.

AMP